



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,590	03/29/2004	Thomas K. Hong	67 TH-15-US	9481

7590 08/26/2005

THOMAS K. HONG
1666 QUEEN STREET EAST, UNIT 18
TORONTO, M4L 1G3
CANADA

EXAMINER

OKEZIE, ESTHER O

ART UNIT	PAPER NUMBER
----------	--------------

3654

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/810,590

Applicant(s)

HONG, THOMAS K.

Examiner

Esther O. Okezie

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6 and 7 recite the limitation "said bag-shaped pouch" in line 1 of claims 6 and 7. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1,2,4,6,7 rejected under 35 U.S.C. 102(b) as being anticipated by Knoshnood.
2. Re claim 1, Knoshnood discloses an apparatus for picking up and bagging animal excrement, said apparatus comprising: an upper jaw member having a hand-grip end (10) and a scooping end (24); a lower jaw member having a hand-grip end (11) and

Art Unit: 3654

a scooping end (25); hinge means (16) for connecting together said upper jaw member and said lower jaw member at said hand-grip ends, for movement between an open position whereat said scooping ends said upper jaw member and said lower jaw member are separated one from the other to permit animal excrement to pass therethrough, and a closed position whereat said scooping ends said upper jaw member and said lower jaw member are closer one to the other than in said open position, so as preclude said animal excrement from passing between said scooping ends of said upper jaw member and said lower jaw member (fig 5) ; and, a plastic bag (32) having an open end and a closed end, and being mountable over said upper jaw member and said lower jaw member so as to form an excrement receiving pocket therebetween, said pocket open at said scooping ends of said upper jaw member and said lower jaw member when said upper jaw member and said lower jaw member are in their open position (fig 6); wherein said upper jaw member has a bag passing opening (26) therein permit said plastic bag pass therethrough from between said upper jaw member and said lower jaw member, when said plastic bag contains excrement therein; and, wherein the apparatus of Khoshnood is capable of being used to remove said plastic bag from said upper jaw member and said lower jaw member, said plastic bag pulled via its closed end through said bag passing opening(26; see figs 1-8c).

3. Re claim 2, said hinge means is flexible ("The hinge 16 is defined by two springs18..." col. 2, lines 52-53).

4. Re claim 4, said upper and said lower jaw member each bent such that their respective scooping ends are angled toward each other (fig 5).

Art Unit: 3654

5. Re claim 6, wherein said bag-shaped pouch is attached adjacent its closed end to said upper jaw member and said lower jaw member adjacent said hand-grip ends, such that said bag-shaped pouch can overlie said upper jaw member and said lower jaw member and can be turned inside-out such that said open end of said bag-shaped pouch faces away from said upper jaw member and said lower jaw member (fig 6).

6. Re claim 7, said bag-shaped pouch is attached adjacent its closed end to said upper jaw member and said lower jaw member adjacent said hand-grip ends, as aforesaid, by means of hook (23) and loop fastening material (fig 4).

7. Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Knoshnood.

8. Re claim 1, Gross discloses an apparatus for picking up and bagging animal excrement, said apparatus comprising: an upper jaw member having a hand-grip end (14) and a scooping end (26); a lower jaw member having a hand-grip end (16) and a scooping end (20); hinge means (16) for connecting together said upper jaw member and said lower jaw member at said hand-grip ends, for movement between an open position whereat said scooping ends said upper jaw member and said lower jaw member are separated one from the other to permit animal excrement to pass therethrough, and a closed position whereat said scooping ends said upper jaw member and said lower jaw member are closer one to the other than in said open position, so as preclude said animal excrement from passing between said scooping ends of said upper jaw member and said lower jaw member (fig 5) ; and, a plastic bag (24) having an

Art Unit: 3654

open end and a closed end, and being mountable over said upper jaw member and said lower jaw member so as to form an excrement receiving pocket therebetween, said pocket open at said scooping ends of said upper jaw member and said lower jaw member when said upper jaw member and said lower jaw member are in their open position (fig 1); wherein said upper jaw member has a bag passing opening (22) therein permit said plastic bag pass therethrough from between said upper jaw member and said lower jaw member, when said plastic bag contains excrement therein; and, wherein the apparatus of Gross is capable of being used to remove said plastic bag from said upper jaw member and said lower jaw member, said plastic bag pulled via its closed end through said bag passing opening(22; see figs 1-9).

9. Re claim 8, a locking tongue (38) disposed on one of said upper jaw member and said lower jaw member, and a tongue receiving notch (40) on the other one of said upper jaw member and said lower jaw member.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3,5,9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khoshnood.

Art Unit: 3654

11. Re claim 3, Khoshnood does not disclose the material from which the braces for the upper and lower jaws and the spring hinge are made. It would have been obvious to one of ordinary skill in the art to make these portions from thin metal sheet as thin metal sheet is flexible, durable, and inexpensive to manufacture.

12. Re claim 5, Khoshnood does not disclose the bag-shaped pouch (figs 7a-7e) made from pliable fabric material. It would have been obvious to one of ordinary skill in the art to construct the bag from a pliable, flexible material such as fabric in order to easily fold the bag over the jaws during operation of the device.

13. Re claim 9, Khoshnood discloses an apparatus for picking up and bagging animal excrement, said apparatus comprising: an upper jaw member having a hand-grip end (10) and a scooping end (24); a lower jaw member having a hand-grip end (11) and a scooping end (25); hinge means (16) for connecting together said upper jaw member and said lower jaw member at said hand-grip ends, for movement between an open position whereat said scooping ends said upper jaw member and said lower jaw member are separated one from the other to permit animal excrement to pass therethrough, and a closed position whereat said scooping ends said upper jaw member and said lower jaw member are closer one to the other than in said open position, so as preclude said animal excrement from passing between said scooping ends of said upper jaw member and said lower jaw member (fig 5) ; and, a plastic bag (32) having an open end and a closed end, and being mountable over said upper jaw member and said lower jaw member so as to form an excrement receiving pocket therebetween, said pocket open at said scooping ends of said upper jaw member and said lower jaw

member when said upper jaw member and said lower jaw member are in their open position (fig 6); wherein said upper jaw member has a bag passing opening (26) therein permit said plastic bag pass therethrough from between said upper jaw member and said lower jaw member, when said plastic bag contains excrement therein; and, wherein the apparatus of Khoshnood is capable of being used to remove said plastic bag from said upper jaw member and said lower jaw member, said plastic bag pulled via its closed end through said bag passing opening (26; see figs 1-8c).

Khoshnood includes bag-shaped pouches (30, figs 7a-7e) having a closed and opened end that are capable of being attached adjacent their closed end to said upper jaw member and said lower jaw member adjacent said hand-grip ends, such that said bag-shaped pouch can overlie said upper jaw member and said lower jaw member and can be turned inside-out such that said open end of said bag-shaped pouch faces away from said upper jaw member and said lower jaw member.

Khoshnood does not disclose the bag-shaped pouch (figs 7a-7e) made from pliable fabric material. It would have been obvious to one of ordinary skill in the art to construct the bag from a pliable, flexible material such as fabric in order to easily fold the bag over the jaws during operation of the device.

14. Re claim 10, said bag-shaped pouch is attached adjacent its closed end to said upper jaw member and said lower jaw member adjacent said hand-grip ends, as aforesaid, by means of hook (23) and loop fastening material (fig 4).

15. Re claim 11, said hinge means is flexible ("The hinge 16 is defined by two springs18..." col. 2, lines 52-53).

Art Unit: 3654

16. Re claim 12, Khoshnood does not disclose the material from which the braces for the upper and lower jaws and the spring hinge are made. It would have been obvious to one of ordinary skill in the art to make these portions from thin metal sheet as thin metal sheet is flexible, durable, and inexpensive to manufacture.

17. Re claim 13, said upper and said lower jaw member each bent such that their respective scooping ends are angled toward each other (fig 5).

18. Claims 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gross.

19. Re claim 9, Gross discloses an apparatus for picking up and bagging animal excrement, said apparatus comprising: an upper jaw member having a hand-grip end (14) and a scooping end (26); a lower jaw member having a hand-grip end (16) and a scooping end (20); hinge means (16) for connecting together said upper jaw member and said lower jaw member at said hand-grip ends, for movement between an open position whereat said scooping ends said upper jaw member and said lower jaw member are separated one from the other to permit animal excrement to pass therethrough, and a closed position whereat said scooping ends said upper jaw member and said lower jaw member are closer one to the other than in said open position, so as preclude said animal excrement from passing between said scooping ends of said upper jaw member and said lower jaw member (fig 5) ; and, a plastic bag (24) having an open end and a closed end, and being mountable over said upper jaw member and said lower jaw member so as to form an excrement receiving pocket therebetween, said

Art Unit: 3654

pocket open at said scooping ends of said upper jaw member and said lower jaw member when said upper jaw member and said lower jaw member are in their open position (fig 1); wherein said upper jaw member has a bag passing opening (22) therein permit said plastic bag pass therethrough from between said upper jaw member and said lower jaw member, when said plastic bag contains excrement therein; and, wherein the apparatus of Gross is capable of being used to remove said plastic bag from said upper jaw member and said lower jaw member, said plastic bag pulled via its closed end through said bag passing opening(22; see figs 1-9).

Gross includes bag-shaped pouches (24) having a closed and opened end that are capable of being attached adjacent their closed end to said upper jaw member and said lower jaw member adjacent said hand-grip ends, such that said bag-shaped pouch can overlie said upper jaw member and said lower jaw member and can be turned inside-out such that said open end of said bag-shaped pouch faces away from said upper jaw member and said lower jaw member.

Gross does not disclose the bag-shaped pouch (24) made from pliable fabric material. It would have been obvious to one of ordinary skill in the art to construct the bag from a pliable, flexible material such as fabric in order to easily fold the bag over the jaws during operation of the device.

20. Re claim 14, a locking tongue (38) disposed on one of said upper jaw member and said lower jaw member, and a tongue receiving notch (40) on the other one of said upper jaw member and said lower jaw member.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (571) 272-8108. The examiner can normally be reached on Mon-Thurs 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine A. Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EOO



KATHY MATECKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600